

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 329 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 pensions and courts.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 3-13-6-1, AS AMENDED BY P.L.119-2005,
- 7 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 UPON PASSAGE]: Sec. 1. (a) As used in this section, "judge" refers
- 9 to a judge of a circuit, superior, probate, or county court.
- 10 (b) If a judge wants to resign from office, the judge must resign as
- 11 provided in IC 5-8-3.5.
- 12 (c) A vacancy that occurs because of the death of a judge may be
- 13 certified to the governor under IC 5-8-6.
- 14 (d) A vacancy that occurs, other than by resignation or death of a
- 15 judge, shall be certified to the governor by the circuit court clerk of the
- 16 county in which the judge resided.
- 17 (e) A vacancy in the office of judge of a circuit court shall be filled
- 18 by the governor as provided by Article 5, Section 18 of the Constitution
- 19 of the State of Indiana. However, the governor may not fill a vacancy
- 20 that occurs because of the death of a judge until the governor receives
- 21 notice of the death under IC 5-8-6. The person who is appointed holds
- 22 the office until:
- 23 (1) the end of the unexpired term; or
- 24 (2) a successor is elected at the next general election and

qualified;
 whichever occurs first. The person elected at the general election following an appointment to fill the vacancy, upon being qualified, holds office for the six (6) year term prescribed by Article 7, Section 7 of the Constitution of the State of Indiana and until a successor is elected and qualified.

(f) A vacancy in the office of judge of a superior, probate, or county court shall be filled by the governor subject to the following:

(1) IC 33-33-2-39.

(2) IC 33-33-2-43.

(3) IC 33-33-45-38.

~~(4) IC 33-33-71-40.~~

However, the governor may not fill a vacancy that occurs because of the death of a judge until the governor receives notice of the death under IC 5-8-6. The person who is appointed holds office for the remainder of the unexpired term.

SECTION 2. IC 5-8-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) Under Article 7, Section 13 of the Constitution of the State of Indiana, whenever a circuit, superior, probate, or county court judge or prosecuting attorney has been convicted of corruption or any other high crime, the attorney general shall bring proceedings in the supreme court, on information, in the name of the state, for the removal from office of the judge or prosecuting attorney.

(b) If the judgment is against the defendant, the defendant is removed from office. The governor, the officer, or the entity required to fill a vacancy under IC 3-13-6-2 shall, subject to:

(1) IC 33-33-2-39;

(2) IC 33-33-2-43; **and**

(3) IC 33-33-45-38; **and**

~~(4) IC 33-33-71-40;~~

appoint or select a successor to fill the vacancy in office."

Page 16, between lines 35 and 36, begin a new paragraph and insert: "SECTION 12. IC 33-23-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. "Commission on judicial qualifications" ~~except as used in IC 33-33-71~~; means the commission described in Article 7, Section 9 of the Constitution of the State of Indiana.

SECTION 13. IC 33-23-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. "Judicial nominating commission", except as used in IC 33-33-2 **and** IC 33-33-45, ~~and IC 33-33-71~~; means the commission described in Article 7, Section 9 of the Constitution of the State of Indiana."

Page 17, between lines 7 and 8, begin a new paragraph and insert: "SECTION 15. IC 33-33-71-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a)** There is

established a superior court in St. Joseph County. The court **has eight (8) divisions known as the:**

- (1) St. Joseph superior court No. 1, a criminal division;**
- (2) St. Joseph superior court No. 2, a criminal division;**
- (3) St. Joseph superior court No. 3, a criminal division;**
- (4) St. Joseph superior court No. 4, a civil division;**
- (5) St. Joseph superior court No. 5, a civil division;**
- (6) St. Joseph superior court No. 6, a civil division;**
- (7) St. Joseph superior court No. 7, a civil division; and**
- (8) St. Joseph superior court No. 8, a criminal division.**

Each division consists of one (1) judge for a total of eight (8) judges.

(b) Each of the eight (8) judges of the St. Joseph superior court shall be elected in nonpartisan elections for a term of six (6) years that begins January 1 after the year of the judge's election and continues through December 31 in the sixth year.

(c) During the period under IC 3-8-2-4 in which a declaration of candidacy may be filed for a primary election, any person desiring to become a candidate for any one (1) of the judgeships shall file with the election division a declaration of candidacy:

- (1) adapted from the form prescribed under IC 3-8-2;**
- (2) signed by the candidate; and**
- (3) designating which judgeship the candidate seeks.**

Any petition without the designation shall be rejected by the election division (or by the Indiana election commission under IC 3-8-1-2).

(d) If an individual who files a declaration under subsection (c) ceases to be a candidate after the final date for filing a declaration under subsection (c), the election division may accept the filing of additional declarations of candidacy for that judgeship not later than noon August 1.

(e) All candidates for each respective judgeship shall be listed on the general election ballot in the form prescribed by IC 3-11, without party designation. The candidate receiving the highest number of votes for each judgeship shall be elected to that office.

(f) IC 3, where not inconsistent with this chapter, applies to elections under this chapter.

SECTION 16. IC 33-33-71-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) The superior court, by rules duly adopted by the court, shall designate one (1) of the judges as chief judge and fix the time the chief judge presides.

(b) The chief judge shall be responsible for the operation and conduct of the court and to seeing that the court operates efficiently and judicially.

(c) The chief judge shall do the following:

- (1) Assign cases to a judge of the court or reassign cases from one**
- (1) judge of the court to another judge of the court to ensure the**

efficient operation and conduct of the court.

(2) Assign and allocate courtrooms, other rooms, and other facilities to ensure the efficient operation and conduct of the court.

(3) Annually submit to the fiscal body of St. Joseph County a budget for the court.

(4) Make appointments or selections on behalf of the court that are required of a superior court judge under any statute.

(5) ~~Direct the employment and management of~~ **Appoint** court personnel, **including:**

(A) a sufficient number of bailiffs, court reporters, and additional personnel necessary for the proper administration of the court; and

(B) an administrative officer;

whose duties and salaries shall be established by the chief judge and paid as provided by law.

(6) Conduct cooperative efforts with other courts for establishing and administering shared programs and facilities.

(7) Appoint two (2) full-time magistrates under IC 33-23-5. The magistrates continue in office until removed by the chief judge.

SECTION 17. IC 33-33-71-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. (a) ~~The commission shall submit only the names of the five (5) most highly qualified candidates from among those eligible individuals considered. To be eligible for nomination to be a candidate to serve as a judge of the St. Joseph superior court, a person:~~

(1) must be domiciled in the county of St. Joseph;

(2) must be a citizen of the United States; and

(3) must be admitted to the practice of law and have had at least five (5) years of practice in the courts of Indiana involving matters assigned to the division described in section 5(a) of this chapter in which the person would serve as judge;

(4) may not previously have had any disciplinary sanction imposed upon the person by the supreme court disciplinary commission of Indiana or any similar body in another state; and

(5) may not previously have been convicted of any felony.

~~(b) In abiding by the mandate in subsection (a); the commission shall evaluate in writing each eligible individual on the following factors:~~

~~(1) Law school record; including any academic honors and achievements.~~

~~(2) Contribution to scholarly journals and publications; legislative draftings; and legal briefs.~~

~~(3) Activities in public service; including:~~

(A) writings and speeches concerning public or civic affairs

which are on public record, including but not limited to campaign speeches or writing, letters to newspapers, and testimony before public agencies;

(B) efforts and achievements in improving the administration of justice; and

(C) other conduct relating to the individual's profession.

(4) Legal experience, including the number of years of practicing law, the kind of practice involved, and reputation as a trial lawyer or judge.

(5) Probable judicial temperament.

(6) Physical condition, including age, stamina, and possible habitual intemperance.

(7) Personality traits, including the exercise of sound judgment, ability to compromise and conciliate patience, decisiveness, and dedication.

(8) Membership on boards of directors, financial interest, and any other consideration that might create conflict of interest with a judicial office.

(9) Any other pertinent information that the commission feels is important in selecting the best qualified individuals for judicial office.

(c) Written evaluations may not be made on an individual until the individual states in writing that the individual desires to hold a judicial office that is or will be created by vacancy.

(d) The political affiliations of any candidate may not be considered by the commission in evaluating and determining which eligible candidates shall be recommended to the governor for a vacancy on the St. Joseph superior court. **This subsection does not apply to a judge or magistrate serving on the court on March 15, 2008. A person who does not meet the eligibility requirements described in subsection (a) on the date the person files a declaration of candidacy under section 5(c) of this chapter may not be listed on the general election ballot.**

SECTION 18. IC 33-33-71-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 44. (a) During a term of office, a judge of the St. Joseph superior court may not:

(1) engage in the practice of law;

(2) run for an elective office other than a judicial office; or

(3) directly or indirectly make any contributions to or hold any office in a political party or organization.

(b) A judge **or candidate for judge** may not take part in any political campaign except as a candidate for ~~retention~~ in judicial office and, in that event, the judge's **or candidate's** campaign participation must:

(1) be ~~absolutely~~ devoid of partisan association; and

(2) be limited to activities designed to acquaint the electorate with

the judge's judicial record: or candidate's qualifications.

(b) Failure to comply with this section is sufficient cause for the commission on judicial qualifications established by section 45 of this chapter to recommend to the supreme court that the judge be censured or removed from office."

Page 38, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 43. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 33-33-71-16; IC 33-33-71-17; IC 33-33-71-22; IC 33-33-71-25; IC 33-33-71-29; IC 33-33-71-30; IC 33-33-71-31; IC 33-33-71-32; IC 33-33-71-33; IC 33-33-71-34; IC 33-33-71-35; IC 33-33-71-36; IC 33-33-71-38; IC 33-33-71-39; IC 33-33-71-40; IC 33-33-71-41; IC 33-33-71-42; IC 33-33-71-43; IC 33-33-71-45; IC 33-33-71-46; IC 33-33-71-47; IC 33-33-71-48; IC 33-33-71-49; IC 33-33-71-50; IC 33-33-71-51; IC 33-33-71-52; IC 33-33-71-53; IC 33-33-71-54; IC 33-33-71-55; IC 33-33-71-56; IC 33-33-71-57; IC 33-33-71-58; IC 33-33-71-59; IC 33-33-71-60; IC 33-33-71-61; IC 33-33-71-62; IC 33-33-71-63; IC 33-33-71-64; IC 33-33-71-65; IC 33-33-71-66; IC 33-33-71-67; IC 33-33-71-68; IC 33-33-71-69; IC 34-46-2-30.4."

Page 38, after line 41, begin a new paragraph and insert:

"SECTION 45. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding the amendment and repeal of provisions in IC 33-33-71 by this act, the term of a judge in office in the St. Joseph County superior court on the effective date of this SECTION does not terminate until the date that the term would have terminated under the law in effect on the day before the effective date of this SECTION.

(b) The initial election under IC 33-33-71, as amended by this act, to fill a judge's position on the St. Joseph County superior court is the general election immediately preceding the date on which the term of the judge occupying the position on the effective date of this SECTION would have terminated under the law in effect on the day before the effective date of this SECTION.

(c) Notwithstanding IC 33-33-71-5, as amended by this act, and IC 3-8-2-4, a person may become a candidate for any judgeship to be elected at the general election to be held on November 4, 2008, by:

(1) executing a declaration of candidacy that:

(A) is adapted from the form prescribed under IC 3-8-2;

(B) is signed by the candidate; and

(C) designates which judgeship the candidate seeks; and

(2) filing the declaration of candidacy with the election division after April 14, 2008, and before May 16, 2008.

Any petition without the designation referred to in subdivision (1)(C) shall be rejected by the election division (or by the Indiana election commission under IC 3-8-1-2). If an individual who files a declaration under this subsection ceases to be a candidate after the

1 **final date for filing a declaration under this subsection, the election**
2 **division may accept the filing of additional declarations of**
3 **candidacy for that judgeship not later than noon on August 1,**
4 **2008.**

5 **(d) This SECTION expires January 2, 2013.**
6 **SECTION 46. An emergency is declared for this act."**
7 Renumber all SECTIONS consecutively.
 (Reference is to ESB 329 as printed February 22, 2008.)

Representative Dvorak